

REMARKS

Reconsideration and withdrawal of the rejections of the Office Action are respectfully requested in view of the remarks and amendments herein which place the application in condition for allowance.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 3, 6, 7, 11-15, 20-31, 33-34, 37-39, 41 and 42 are pending. No new matter is added.

Specification

The Specification was objected to because each of the sequences recited on page 7 did not have corresponding SEQ ID NO identifiers (within parentheses) thereafter. The Specification has been amended accordingly, thereby overcoming the Examiner's objection.

II. THE REJECTIONS UNDER 35 U.S.C. 112 ARE OVERCOME

Claims 3, 6, 7, 11-15, 20-31, 33, 34, 37-39, 41 and 42 were rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking enablement. The rejection is respectfully traversed.

More specifically, the Examiner sought confirmation that the Deposit of Biological Materials was made pursuant to the Budapest Treaty (such that the following statement overcomes the objection and rejection, and the herewith amendments are irrelevant to the objection and rejection, and hence, cannot and do not give rise to any estoppel).

With respect to these biological materials, the undersigned states that she is a registered patent attorney representing the Applicants. That the biological materials, accession no. DSM 13084 and DSM 13085, identified in the application as deposited, were deposited under the terms of the Budapest Treaty with Deutsche Sammlung für Mikroorganismen und Zellkulturen (DSMZ), having an address at Mascheroder Weg 1b, D-38124 Braunschweig, Germany, and that:

- (a) during the pendency of this application, access to each of the Deposits will be afforded to the Commissioner upon request;
- (b) all restrictions upon availability of the each of the Deposits to the public will be irrevocably removed upon granting of the patent;

- (c) each of the Deposits will be maintained in a public depository for a period of 30 years or 5 years after the last request or for the effective life of the patent, whichever is longer;
- (d) a test of the viability of the biological material at the time of each of the Deposits was made; and
- (e) each of the Deposits will be replaced if it should ever become inviable.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. §112, first paragraph, is respectfully requested.

REQUEST FOR INTERVIEW


If any issue remains as an impediment to allowance, an interview with the Examiner is respectfully requested, prior to issuance of any paper other than a Notice of Allowance; and, the Examiner is respectfully requested to contact the undersigned to arrange a mutually convenient time and manner for such an interview.

CONCLUSION

In view of the remarks and amendments herewith and those of record, the application is in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance, or an interview at a very early date with a view to placing the application in condition for allowance, are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date.

Respectfully submitted,

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